IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

OP.No. 4949 of 1997(L)

PETITIONERS:
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1. **M/S. PALMS FOOD SPCIALITIES (P) LTD.,**
   1/784 A, KARANTHUR.P.O., KOZHIKODE - 673 571,
   REPRESENTED BY IT'S MANAGING DIRECTOR.

2. **SRI. JOHN EAPEN VARGHESE,**
   MANAGING DIRECTOR,
   M/S. PALMS FOOD SPECIALITIES (P) LTD.,
   1/784 A, KARANTUR.P.O.,
   KOZHIKODE - 673 571.

BY ADV. SRI.ROSY GEORGE.

RESPONDENTS:
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1. **UNION OF INDIA, REPRESENTED BY ITS SECRETARY,**
   MINISTRY OF HEALTH AND FAMILY WELFARE, NEW DELHI.

2. **THE SECRETARY, CENTRAL COMMITTEE OF FOODS**
   STANDARD, MINISTRY OF HEALTH AND FAMILY WELFARE,
   NEW DELHI.

3. **THE DIRECTOR OF FRUIT AND VEGETABLE PROCESSING,**
   MINISTRY OF FRUIT AND CIVIL SUPPLIES,
   NEW DELHI.

4. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO**
   GOVERNMENT, HEALTH AND FAMILY WELFARE (G) DEPARTMENT,
   TRIVANDRUM.

O.P. NO. 4949/1997:

5. FOOD INSPCTOR, THRISSUR MUNICIPALITY, THRISSUR.

BY SRI.K.P.VIJAYAN,
SRI.BOBY MATHEW,
SRI.V.B.JINNAH,
SRI.GEORGE JOSEPH, ADDL.CGSC.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 4949/1997:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE COMPLAINT FILED BY THE R.5. BEFORE THE COURT OF CHIEF JUDICIAL MAGISTRATE, THRISSUR.

EXT.P.2: COPY OF THE REPORT OF THE PUBLIC ANALYST DTD. 23/10/96.

EXT.P.3: COPY OF THE LETTER ISSUED BY THE R.3. TO THE DIRECTOR GENERAL OF HEALTH SERVICES.

//TRUE COPY//

prv.

S.SIRI JAGAN, J.

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O.P.No.4949 of 1997

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Dated this the 7th day of March, 2007

J U D G M E N T

This matter arises under the Prevention of Food Adulteration Act. The petitioner challenges Section 2(1a)(m) of the Prevention of Food Adulteration Act, 1954 and seeks a declaration that Rule A16.16 of Appendix B of the Prevention of Food Adulteration Rules 1955 is ultra vires, unconstitutional and without legislative competence. Apparently, this original petition has been filed in the wake of the prosecution proceedings initiated in S.T.No.822/1996 pending before the Chief Judicial Magistrate Court, Thrissur, against the petitioner. Now the counsel for the petitioner submits that similar issues have been considered by this court in O.P.Nos.7778/1996 and 12810/1996 in which this court has dismissed similar original petitions without prejudice to the

right of the petitioners to take up all their contentions before the Magistrate in the proceedings pending. In view of the above submission, this original petition is dismissed without prejudice to the right of the petitioner to take up all their contentions in the criminal proceedings pending before the Chief Judicial Magistrate Court, Thrissur, in S.T.No.822/1996.

Interlocutory applications stand closed.

sdk+ S.SIRI JAGAN, JUDGE

S.SIRI JAGAN, J.

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O.P.No.4949 of 1997

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J U D G M E N T

7th March, 2007